IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1086 of 1988 and
Cross Objection No. 16 CII of 1989

Date of Decision: 23.8.2006

Tarlok Singh and another **... Appellants**

Jarnail Singh and others **... Respondents**

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. G.S.Bal, Advocate,
for the appellant.

Mrs. Urvashi Dhugga, AAG Punjab

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Rajesh Bindal, J.

Learned counsel for the appellants states that he had tried to contact the appellants through registered post but he received it back unserved with the report that the appellants are not residing at the given address, hence, he pleads no instructions.

Accordingly, this appeal is dismissed for non-prosecution.

Cross Objection No. 16 CII of 1989

Cross Objections were filed by the claimant-widow of deceased, Head Constable Randhir Singh for enhancement of compensation arising out of award of the Motor Accidents Claims Tribunal, Ludhiana (for short 'the Tribunal') dated 15.09.1988 passed in MACT Case No. 246/27/40 of 1987/88 in appeal filed by the parents of the deceased challenging the award of the Tribunal to the extent that the compensation awarded by it deserves to be enhanced and further, the apportionment of compensation made by the Tribunal between the parents

and the widow of the deceased should be modified to the extent that half of the compensation should be paid to the appellants.

Briefly the facts of the case are that Head Constable Randhir Singh died in an accident in Khammano on August 31, 1987 at about 8.45 A.M. He was 32 years of age and was posted as Head Constable in Punjab Police. He was a pillion rider on a Motor cycle No. PAM 5338, being driven by Head Constable Santokh Singh. The fatal accident took place with bus No. PJG 4607 belonging to Punjab Roadways, Taran Tarn Depot, owned by the State of Punjab. The factum of the accident and the negligence of the offending vehicle is not in dispute. The evidence recorded by the Tribunal to that effect has not been assailed by the State by filing any appeal. As far as determination of the amount of compensation is concerned, it has come on record that the deceased, who was working as Head Constable in Punjab Police was drawing a salary of Rs. 1479.30 per month at the time of his death and was about 32 years of age at that time. The Tribunal, while applying cut of 1/3rd for his own maintenance, determined the dependency at Rs. 900/- per month and accordingly, calculated the amount of compensation payable to the claimants i.e. the parents and the widow of the deceased at Rs. 2,20,000/-. Multiplier of 20 was applied. The amount of the compensation was directed to be paid along with interest at the rate of 12% and the same was directed to be shared between the claimants in the following manner:-

1. Rupinder Kaur (wife)	Rs. 1,60,000/-
2.Tarlok Singh (father)	Rs. 30,000/-
3. Tej Kaur (mother)	Rs. 30,000/-
	Rs. 2,20,000/-

No one has appeared for the claimant-widow. From a perusal of the award of the Tribunal it is found that the basic mistake made by the Tribunal while determining the appropriate compensation payable to the

claimants in the present case is that the future prospects of the deceased in his service career have not been considered at all. The deceased was a young man of 32 years of age, who was employed as a Head Constable with the Punjab Police. He had bright future in the long career during which he would have risen to higher post having better status and drawing increased salary. In such a case, determination of dependency while taking his income at the date of the death would not be the right course to be adopted. Reliance is placed on Kerala State Road Transport Corporation vs. Susamma Thomas and others 1994 (2) P.L.R.1 (SC) and Smt. Sarla Dixit vs. Balwant Yadav 1996 (2) P.L.R. 656 (SC).

In Kerala State Road Transport Corporation's case (Supra) Hon'ble the Supreme Court while considering the issue on future prospects in life and estimation of income in that light observed as under:

> "13.....The deceased person in this case had a more or less stable job. It will not be inappropriate to take a reasonably liberal view of the prospects of the future and in estimating the gross income it will be unreasonable to estimate the loss of dependency on the present actual income of Rs.1,032/- per month. We think, having regard to the prospects of advancement in the future career, respecting which there is evidence on record, we will not be in error in making a higher estimate of monthly income at Rs. 2,000/- as the gross income. From this has to be deducted his personal living expenses, the quantum of which again depends on various factors such as whether the style of living was Spartan or Bohemian. In the absence of evidence it is not unusual to deduct one-third of the gross income towards the personal living expenses and treat the balance as the amount likely to have been spent on the members of the family and the dependents. This loss of dependency should capitalize with the appropriate multiplier. In the present case we can take about Rs. 1,400/- per month or Rs. 17,000/- per year as

> the loss of dependency and if capitalized on a multiplier of 12, which is appropriate to the age of the deceased, the compensation would work out to (Rs. 17,000/- x 12= Rs. 2,04,000/-) to which is added the usual award for loss of consortium and loss of the estate each in the conventional sum of Rs. 15,000/-"

Learned counsel for the State submitted that the parents of the deceased were admittedly more than 60 years of age when the findings in the present case were recorded more than about 20 years ago and the wife of the deceased, who was young at that time could very well remarry to come out of this unfortunate situation. She further argued that the amount of compensation awarded by the Tribunal is just and fair and in case, any amount is found to be enhanced by keeping in view the future prospectus of the deceased in life, the factum of a higher multiplier having been applied by the Tribunal cannot be lost sight off. If both the facts are considered still the amount of compensation payable to the claimants would remain same. Accordingly, she prayed for dismissal of the cross objection.

After having heard counsel for the parties and perusing the record, I find that undisputedly, the deceased, who was employed as a Head Constable with the Punjab Police and was drawing a salary of Rs. 1470.30 paise per month at the time of death. In such a situation, as per the principles of law laid down in the judgment referred to above, an appropriate method for calculation/determination of dependency is to take the current income as dependency by rounding off the same, accordingly, I determine the dependency of the deceased at Rs. 1500/- per month. On the multiplier front, I see that the same having been applied at 20 by the Tribunal was quite on the higher side. In the facts and circumstances of the case, multiplier of 16 is the most reasonable.

Keeping in view the age of the deceased and the claimants by taking the dependency at Rs. 18,000/- per annum and applying the multiplier of 16, the amount of compensation payable to the claimants comes to Rs. 2,88,000/- to which another sum of Rs. 2,000/- is added for performance of last rights and Rs. 10,000/- on account of loss of consortium and thus, making a total of Rs. 3,00,000/-. The additional amount of compensation shall be payable along with interest at the rate of 6% per annum from the date of application i.e. October 20, 1987 till the payment.

The Cross-Objections are disposed of, accordingly and the award of the Tribunal is modified to the extent indicated above.

Since on one has appeared for the Cross-Objector, let a copy of the order be sent to her by the Registry of this Court.

(RAJESH BINDAL)
JUDGE

August 23, 2006
pj